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EXECUTIVE SECRETARIAT

Routing Slip

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7	DDO				
8	DDS&T				
9	Chm/NIC				
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11	IG				
12	Compt	✓			
13	D/EEO				
14	D/Pers				
15	D/OEA				
16	C/PAD/OEA				
17	SA/IA				
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19	C/IPD/OIS				
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SUSPENSE		Date			

Remarks:

Executive Secretary

Date



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

September 22, 1983

Memorandum Re: []
83-4662

83-4343

M-83-25

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Joseph R. Wright, Jr.

SUBJECT: Agency Operations in the Absence of Appropriations

1. Once again, regular appropriations bills for many Executive branch departments and agencies may not be signed into law by midnight Friday, September 30, 1983. Thus far, the appropriations bills for FY84 that have been signed by the President are:

- HUD - Independent Agencies
- Transportation and Related Agencies
- Energy and Water Development

30-7

2. Others may be signed on time, but the Congress currently is considering a Continuing Resolution to provide funds for those agencies whose appropriations bills will not be completed by September 30. Naturally, the President hopes that an acceptable Resolution will be enacted; however, prudence dictates that fully operational contingency plans be in effect if this does not happen. Each affected agency therefore should begin to engage in active contingency planning as if an appropriations hiatus will occur on October 1, 1983.

3. OMB Bulletin 80-14, dated August 28, 1980 (and amended by the OMB Director's memorandum of November 17, 1981) requires all agencies to maintain such plans to deal with an appropriations hiatus. Furthermore, the Attorney General's opinion dated January 16, 1981 supporting this bulletin remains in effect. In general:

- o All employees of affected agencies performing non-excepted activities (as defined by the Attorney General's opinion) are not permitted to perform any services other than those involved in the orderly suspension of non-excepted activities.
- o The Antideficiency Act does not permit agencies to accept voluntary performance of non-excepted services.

83-4343



- o Agency Heads make the determinations that are necessary to operate their agencies during an appropriations hiatus (within the guidance established by the Attorney General's opinion and this Memorandum, and pursuant to normal agency processes for the resolution of issues of law and policy).

- Questions that cannot be determined by an agency should be addressed to their OMB budget examiners or to OMB Counsel Michael J. Horowitz (395-4852).
- Any unresolved legal questions relative to the construction of the Antideficiency Act will be jointly referred to the Office of Legal Counsel of the Department of Justice.

4. Affected agencies should update their shutdown plans to accommodate all changes made necessary by intervening events since December 1982 and submit any changes to their OMB budget examiners by September 26.

5. There is an unusual aspect to this year's shutdown process. Implementation will be particularly difficult because any lapse of appropriations would occur over a weekend:

- o Weekend Employees -- Affected agencies will have to make special arrangements for non-excepted employees who otherwise would report to work during the weekend. OMB will inform affected agencies by approximately 2:00 p.m. Friday (September 30) whether it appears with reasonable certainty that an acceptable Continuing Resolution will be signed by midnight. If it does not appear that one will be signed, agency shutdown plans should be implemented for non-excepted weekend employees, who should be instructed to report for their first scheduled work turn for the sole purpose of engaging in orderly shutdown activities. Affected agencies should notify their OMB budget examiners by September 26 of the number, kind and location of non-excepted employees who ordinarily would report to work during the weekend.

- o All Other Employees -- OMB also will inform affected agencies at approximately 2:00 p.m., Friday, September 30, if it appears with reasonable certainty that an acceptable Continuing Resolution will be signed during the weekend of October 1-2. If it does not appear that one will be signed, agency shutdown plans should be implemented, and all employees performing non-excepted activities should be instructed to complete the orderly suspension of their duties by c.o.b. that Friday. Under the circumstances, therefore, present planning should be guided by two primary considerations:

- Appropriate notification procedures should be developed for all employees performing non-excepted activities, which should include means by which they can determine, through media sources if necessary, whether a Continuing Resolution was enacted during the weekend of October 1 - 2.
- Unless otherwise indicated by OMB, all employees performing non-excepted activities should be instructed on Friday, September 30, not to report for work on Monday, October 3 in the absence of an enacted Continuing Resolution.

6. Affected agencies will be asked to attend a meeting at OMB next week to review the status of agency preparations for implementation of shutdown plans and to provide further policy guidance.

7. OMB examiners should be immediately notified of any problems relative to full compliance with this Memorandum or the Attorney General's opinion.